IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CA NO. 3558/2007 IN LPA (ST) NO. 3674/2007 IN WP NO. 6133/2004

Office Notes, Office Memoranda of Coram appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Shri M.I. Dhatrak, Advocate for the petitioner.

CORAM : J.P. DEVADHAR &
B.P. DHARMADHIKAR, JJ.
26TH JUNE, 2007

The present Civil Application is for condonation of delay of 44 days in fling Letters Patent Appeal (Stamp) No. 3674 of 2007.

The LPA is directed against the judgment of learned Single Judge dismissing the writ petition in motion holding that there was no jurisdictional error or perversity in the judgment dated 21.09.2004 delivered by the Industrial Court.

We have heard Shri M.I. Dhatrak, the learned Counsel appearing for the applicant on merit. The learned Member of Industrial Court has directed the appellant-Municipal Council to pay its employees working in octroi department for work which they have done on weekly off and holidays i.e. on second Saturday and fourth Saturday. The defence of present appellant

that it is an emergency service (essential service) is found to be misconceived. The matter before us on 22nd June, 2006 and on that day we had adjourned the matter to today to enable the learned Counsel for the appellant to point out this aspect.

Today the appellant is not in a position to point that Octroi Department of the Municipal Council is an essential service and, therefore, it is exempted from requirement of weekly off or other holidays.

In these circumstances, we find nothing wrong in the view taken by the learned Industrial Court. As such, we do not find any substance in issuing the notice. The Civil Application is rejected.

JUDGE JUDGE

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